

## SENATE BILL NO. 274

INTRODUCED BY BARKUS

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE MONTANA MORTGAGE BROKER AND LOAN ORIGINATOR LICENSING ACT TO REVOKE AN EXEMPTION FOR MORTGAGE BANKERS ACTING AS MORTGAGE BROKERS; EXPANDING CERTAIN EXEMPTIONS; REQUIRING CERTAIN MORTGAGE BANKERS TO BE LICENSED AS MORTGAGE BROKERS; INCLUDING MORTGAGE BANKER EXPERIENCE AS QUALIFYING EXPERIENCE FOR A MORTGAGE BROKER LICENSE; AND AMENDING SECTIONS 32-9-102, 32-9-104, AND 32-9-109, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 32-9-102, MCA, is amended to read:

**"32-9-102. License requirement.** (1) A person or entity may not act as a residential mortgage broker or loan originator ~~after September 1, 2004~~, unless licensed under the provisions of this part.

(2) A mortgage banker who provides services for a fee as an intermediary between a borrower and a lender in obtaining financing for a borrower that is to be secured by a residential dwelling for between one and four families is acting as a mortgage broker and must be licensed as a mortgage broker."

**Section 2.** Section 32-9-104, MCA, is amended to read:

**"32-9-104. Exemptions.** The provisions of this part do not apply to:

(1) a person or entity that makes or collects loans, to the extent that those activities are subject to licensure or registration by this state under other provisions of Montana law unless the person or entity is also acting as a mortgage broker or loan originator;

(2) (A) a bank or trust company chartered under Title 32, chapter 1, a bank or trust company chartered under the National Bank Acts in Title 12 of the United States Code, a building and loan association chartered under Title 32, chapter 2, a savings and loan association chartered under the Home Owners' Loan Act in Title 12 of the United States Code, a credit union chartered under Title 32, chapter 3, or a credit union chartered under the Federal Credit Union Act in Title 12 of the United States Code;

(B) ANY EMPLOYEE OF AN ENTITY LISTED IN SUBSECTION (2)(A); OR

1 (C) ANY SUBSIDIARY OF AN ENTITY LISTED IN SUBSECTION (2)(A) AND ANY EMPLOYEE OF THE SUBSIDIARY IF THE  
2 SUBSIDIARY IS SUBJECT TO THE EXAMINATION AND SUPERVISION OF:

3 (I) THE DEPARTMENT;

4 (II) THE FEDERAL DEPOSIT INSURANCE CORPORATION;

5 (III) THE FEDERAL RESERVE SYSTEM;

6 (IV) THE NATIONAL CREDIT UNION ADMINISTRATION; OR

7 (V) THE DEPARTMENT OF THE TREASURY THROUGH ITS OFFICE OF THE COMPTROLLER OF THE CURRENCY OR  
8 OFFICE OF THRIFT SUPERVISION;

9 (3) a person or entity engaged solely in commercial mortgage lending; or

10 (4) a political subdivision or governmental entity of the United States or any state of the United States;

11 or

12 ~~—— (5) a mortgage banker, except that a mortgage banker that also provides services as a mortgage broker~~  
13 ~~for more than four mortgage loans in a calendar year must be licensed as a mortgage broker with respect to~~  
14 ~~those mortgage broker services."~~

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16 **Section 3.** Section 32-9-109, MCA, is amended to read:

17 **"32-9-109. Experience requirements.** (1) Except as provided in 32-9-111:

18 (a) an individual applying for a license as a mortgage broker must have a minimum of 3 years of  
19 experience working as a loan originator, as a mortgage banker, or in a related field; and

20 (b) an individual applying for a license as a loan originator must have a minimum of 6 months of  
21 experience working in a related field.

22 (2) The department shall by rule establish what constitutes work in a related field."

23 - END -